

United States District Court
Eastern District of California

Paul Loutzenhiser,

Plaintiff,

vs.

Alvaro C. Traquina, et al.,

Defendants.

No. Civ. S 04-1937 LKK PAN P

Order

-oOo-

Plaintiff is a state prisoner without counsel prosecuting a civil rights action.

The case proceeds on the September 16, 2004, complaint against defendants Traquina, Webster and Cervantes; claims against defendant Franklin were stayed January 4, 2006, because he is in bankruptcy proceedings.

Plaintiff's right leg is an inch shorter than his left, and he claims constitutional violations stemming from prison officials' failure to provide a lift for his shoe. Plaintiff's

1 claims involve prison instructions and protocols for obtaining
2 medical prosthetic devices. In findings and recommendations made
3 August 22, 2005, I invited plaintiff to amend his pleading to
4 include claims against those responsible for creating the
5 instructions and protocols.

6 November 1, 2005, plaintiff moved for leave to file an
7 amended complaint. His proposed "amended" complaint is in fact a
8 supplemental and amended complaint, because it adds claims based
9 on events after this action commenced. It names all current
10 defendants plus Carey, Thor, Riggins and Altchek.

11 Plaintiff served his motion on defendants Traquina, Webster
12 and Cervantes. The prison will not allow him to make an
13 additional copy and thus the motion was not served on Franklin,
14 who is represented by outside counsel. None of the defendants
15 have opposed amendment.

16 Good cause appearing, the court hereby orders that:

17 1. Plaintiff's November 1, 2005, motion to amend is
18 granted. The Clerk of the Court shall file plaintiff's proposed
19 amended pleading, describing it in the docket as "amended and
20 supplemental complaint."

21 2. Defendants Traquina, Webster and Cervantes shall respond
22 to the pleading within 30 days.

23 3. Service is appropriate for defendants Carey, Thor
24 Riggins and Altchek.

25 4. The Clerk of the Court shall send plaintiff four USM-285
26 forms, one summons, an instruction sheet and one copy of the

1 amended and supplemental complaint.

2 5. Within 30 days from service of this order, plaintiff
3 shall complete the attached Notice of Submission of Documents and
4 submit it to the court with the completed summons and USM-285
5 forms and five copies of the amended and supplemental complaint.

6 6. Upon receipt of the necessary materials, the court will
7 direct the United States Marshal to serve defendants Carey, Thor
8 Riggins and Altchek pursuant to Federal Rule of Civil Procedure 4
9 without payment of costs.

10 Dated: January 24, 2006.

11 /s/ Peter A. Nowinski

12 PETER A. NOWINSKI

13 Magistrate Judge
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United States District Court
Eastern District of California

Paul Douglas Loutzenhiser,

Plaintiff,

No. Civ. S 04-1937 LKK PAN P

vs.

Notice of Submission of Documents

Alvaro C. Traquina, et al.,

Defendants.

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Plaintiff hereby submits the following documents in
compliance with the court's order filed _____:

_____ completed summons form

_____ completed forms USM-285

_____ copies of the _____
Amended and Supplemental Complaint

Dated: _____

Plaintiff